

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL DOCKET NO.: 5:11CV163-RLV**

CINDY B. WILLIAMS,)	
Plaintiff,)	
)	
vs.)	<u>Memorandum & Opinion</u>
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
Defendant.)	
)	

THIS MATTER is before the Court on Plaintiff's Motion for Judgment on the Pleadings and Defendant's Motion for Summary Judgment. (Docs. 12, 14).

Pursuant to 28 U.S.C. § 636(b)(1)(B), United States Magistrate Judge David C. Keesler was designated to consider and recommend disposition in the aforesaid motion. In an opinion filed January 15, 2013, the Magistrate Judge opined that the ALJ's findings and determination as to Plaintiff's disability was *not* supported by substantial evidence and, therefore, failed to support the Commissioner's decision. More specifically, the Magistrate Judge noted, "it is unclear how the ALJ reached his conclusion at Step 5." (M & R at 7.) The Magistrate Judge explained: "[I]t is not clear that substantial evidence supports a finding that Plaintiff Williams' nonexertional maladies would not affect her ability to perform work of which she was exertionally capable." (M & R at 9.) As a result, the Magistrate Judge recommended that Plaintiff Williams' motion be denied; that Defendant's motion for summary judgment be denied; and that the Commissioner's determination that Williams was not disabled during the relevant time period be vacated; and that this matter be remanded for a new hearing. (Doc. 17) (M & R at 9.) The time for filing objections has since passed, 28 U.S.C. § 636(b)(1)(c), and no objections have been filed by either

party in this matter.

After a careful review of the Magistrate Judge's Memorandum & Recommendation, the Court finds that his findings of fact are supported by the record and his conclusions of law are consistent with and well supported by current case law. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315-16 (4th Cir.2005) (“[I]n the absence absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”); *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982) (holding that only a careful review is required in considering a memorandum and recommendation absent specific objections.) Accordingly, the Court hereby accepts the Memorandum & Recommendation of the Magistrate Judge and adopts it as the final decision of this Court for all purposes relating to this case.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Judgment on the Pleadings (Doc. 12) is hereby **DENIED**; Defendant's Motion for Summary Judgment (Doc. 14) is likewise **DENIED**; and the Commissioner's denial of benefits **VACATED** and **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for rehearing or any other administrative proceedings that may be appropriate.

Signed: February 8, 2013



Richard L. Voorhees
United States District Judge

